

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction, or to a unit outside of the PHA's jurisdiction under Portability procedures. The regulations also allow the PHA the discretion to develop policies that define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the PHA's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because the PHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.

The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner).

The owner has given proper notice of lease termination, without cause, (if the owner has a right to terminate the lease on notice to the tenant).

The owner terminates the lease for the following reasons: Landlord's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit or a business or economic reason.

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

The PHA will deny permission to move if there is insufficient funding for continued assistance.

The PHA will deny permission to move if:

The family has violated a Family Obligation.

The family owes the PHA money.

The PHA will allow one move within a 12 month period unless approved by the PHA.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

The PHA will issue the Voucher to move after conducting a recertification.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the PHA proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the PHA simultaneously.

For units under a Certificate HAP contract effective before October 2, 1995, if the family vacates the unit without proper notice in writing to the owner, the family will be responsible for any vacancy loss paid by the PHA.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the PHA's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the PHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of the PHA's jurisdiction, the request must specify the area to which the family wants to move.

Restrictions on Portability

Applicants

If neither the head of household or spouse had a domicile (legal residence) in the PHA's jurisdiction at the date of their initial application for assistance, the family will not be permitted

to exercise portability upon initial issuance of a voucher. [NOTE: legal domicile is defined by local government.]

For a portable family that was not already receiving assistance in the PHA's based program, the PHA must determine whether the family is eligible for admission under the receiving PHA's program.

Upon initial issuance of a voucher the family must be income eligible under the receiving PHA income limits during the initial 12-month period after admission to the program.

Participants

The PHA will not permit families to exercise portability:

If the family is in violation of a family obligation.

If the family owes money to the PHA.

If the family has moved out of its assisted unit in violation of the lease.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The PHA will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. If administering, the family will be issued a "Portable" Voucher by the PHA with the same start date. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for approval of tenancy for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the Family decides not to lease-up in the PHA's jurisdiction, they must contact the initial PHA to request an extension.

The PHA will absorb all incoming portable families provided that there is funding available.

When the PHA does not absorb the incoming Voucher, it will administer the Initial PHA's Voucher and the receiving PHA's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program.

The PHA will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition that would change the Voucher size, the PHA will change to the proper size based on its own Subsidy Standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As receiving PHA, the PHA will conduct a recertification interview and verify the information.

If the PHA conducts a recertification of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the PHA's jurisdiction, the PHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Tenancy Approval

A briefing will be mandatory for all portability families.

When the Family submits a Request for Tenancy Approval, it will be processed using the PHA's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a lease, the Initial PHA will be notified.

If the Family leases up successfully, the PHA will notify the Initial PHA and the billing process will commence.

The PHA will notify the initial PHA if the family fails to submit a request for approval of tenancy for an eligible unit within the term of the voucher.

If the PHA denies assistance to the family, the PHA will notify the Initial PHA and the family will be offered a review or hearing.

The PHA will notify the Family of its responsibility to contact the Initial PHA if the Family wishes to move outside the PHA's jurisdiction under continued portability.

Regular Program Functions

The PHA will perform all program functions applicable to the tenant-based assistance program, such as:

Annual reexaminations of family income and composition;

Annual inspection of the unit; and

Interim Examinations when requested or deemed necessary by the PHA

Terminations

The PHA will notify the Initial PHA in writing of any termination of assistance. If an Informal Hearing is required and requested by the Family, the hearing will be conducted by the PHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial PHA.

The Initial PHA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial PHA notifies the PHA that the Family is in arrears or the Family has refused to sign a Payment Agreement, the PHA will terminate assistance to the family.

Required Documents

As Receiving PHA, the PHA will require the documents listed on the HUD Portability Billing Form from the Initial PHA.

Billing Procedures

As Receiving PHA, the PHA will bill the Initial PHA monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and Special Claims will be monthly unless requested otherwise by the Initial PHA.

The PHA will bill 100% of the Housing Assistance Payment, 100% of Special Claims and 80% of the Administrative Fee (at the Initial PHA's rate) for each "Portability" Voucher leased as of the first day of the month.

The PHA will notify the Initial PHA of changes in subsidy amounts and will expect the Initial PHA to notify the PHA of changes in the Administrative Fee amount to be billed.